

# CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139  
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## COMMISSION MEMORANDUM

To: Mayor David Dermer and  
Members of the City Commission

Date: May 18, 2005

From: Jorge M. Gonzalez  
City Manager

Subject: **REPORT OF THE FINANCE AND CITYWIDE PROJECTS COMMITTEE  
MEETING OF APRIL 27, 2005.**

A meeting of the Finance and Citywide Projects Commission Committee (Committee) was held on April 27, 2005 at 3:00 p.m. in the City Manager's Large Conference Room.

### NEW BUSINESS:

1. Discussion regarding the City of Miami Beach and Boucher Brothers Miami Beach, LLC (Boucher Brothers) Concession Agreement.

### ACTION

The Committee moved the item to the full Commission, recommending approval of the proposed agreement.

Asset Manager Joe Damien introduced and summarized the item. Mr. Damien stated that the Concession Agreement between the City and Boucher Brothers provided that at the end of the first contract year, both parties would meet to review the Concessionaire's performance and to discuss quality, operational, maintenance and other related issues.

Mr. Damien stated that the Administration has met with Boucher Brothers on several occasions in order to discuss contract provisions and address inconsistencies and operational issues that have been identified.

Mr. Damien added that both parties have concluded negotiations and reached consensus on a proposed "Amended and Restated Concession Agreement."

Mr. Damien added that since inception of the original agreement, Boucher Brothers has been responsive to City concerns and inquiries. He also stated that Boucher Brothers has exceeded revenue projections on a yearly basis.

Mr. Michael Milberg, representing the Boucher Brothers, addressed the Committee and stated that he was thrilled with the relationship and dialogue that has developed between the two parties. Mr. Milberg added that the reason the Amended Agreement has taken two years to complete is because both parties have taken a look at and addressed every conceivable scenario.

Agenda Item C6C  
Date 5-18-05

**purposes and exceptions, and live-aboard; establishing a penalty for violation; providing for repealer of all conflicting Ordinances, Rules and Regulations; providing for Codification and a Severance Clause; and setting an Effective Date.**

### **ACTION**

**The Committee moved the item to the full Commission, recommending staff incorporate a seven day standard, as oppose to the original three day standard, into the ordinance as a reasonable definition of the time for which a vessel could be considered in or out of navigation.**

Assistant City Manager Robert C. Middaugh introduced and summarized the item. Mr. Middaugh stated that at the April 20, 2005 City Commission First Reading of this proposed Ordinance the Administration was provided with direction and expectations regarding enforcement, towing and storage issues, as well as, mooring field provisions.

Mr. Middaugh stated that the Ordinance was prepared as a result of concerns expressed by residents about water pollution, navigational hazards and visual intrusions associated with vessels that anchor or moor for long periods of time in the waters of the City.

Vice-Chairman Richard L. Steinberg raised concerns over the City's liability in enforcing this proposed Ordinance.

Mr. Held addressed some of the legal implications of the proposed Ordinance.

Lieutenant Eduardo Yero and Officer Michael Pryor, of the Miami Beach Police Department, addressed issues regarding police protocol for towing and storage. Officer Pryor stated that the Police Department does not normally arrest individuals on civil charges. Lieutenant Yero also stated that a vessel could be an individual's primary residence and concerns of entering someone's home without a search warrant need further investigation.

City Attorney Murray Dubbin described the legal mechanism for which a lien could be placed on a vessel.

The Committee expressed their concerns with the high costs to enforce the Ordinance.

The Committee also raised questions surrounding expectations for enforcement of the Ordinance and discussed language amendments.

The Committee stated that enforcement could be more flexible than originally anticipated. The Committee indicated that only in required circumstances would towing and storage be necessary rather than in every instance of non-compliance. Vice-Chairman Steinberg pointed out that costs of enforcement are significantly impacted by this expectation and should be reflected in budgeted projections.

Chairman Smith stated that between this meeting and the next Commission meeting, staff should address the concerns raised, particularly methods of enforcement that might minimize program costs.

The Committee also discussed language to better describe the enforcement portion of the Ordinance and more significantly the time limit to be applied to vessels anchoring in City waters. Commissioner Matti H. Bower stated that a seven-day standard, as oppose to the original three-day standard, is a more reasonable definition of the time for which a vessel should be considered in or out of navigation.

JMG/PDW/min 

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# ATTENDANCE SHEET

## MEETING OF THE FINANCE AND CITYWIDE PROJECTS COMMISSION COMMITTEE

DATE: - APRIL 27, 2005 TIME: - 2:30 PM

PLEASE STATE YOUR NAME WHEN SPEAKING TO THE COMMITTEE - THANK YOU

PLEASE PRINT NAME	BUSINESS NAME & PHONE
GIL ZRINY	327 JEFF. AVE 305-672-8817
Gary Held	CMB-CAO
MANNY MARQUEZ	CMB-FIN.
Joe Damien	CMB - ASSET
ROBERT REBOSO	CMB - ASSET
Rachel Irf	CMB
STEVEN BOUCHER	BOUCHER BROTHERS <sup>305</sup> 535-8177
BIZAN NAKHJAVAN	MONTY'S MIAMI Beach LLC.
AC WENSTEN	SUNPOST
MICHAEL MILNER	Recher Brothers
GABRIEL REDEIN & ELSE	CITIZENS.
R. Middaugh	CMB
M. PRYOR	MBPD
LT. EDUARDO YERO	MBPD
DOLORES MEJIA	CMB - MAYOR & COMM ext 6834
Marganta Olson	" " ext. 6437
CARTER McDERMOTT	BIZAN SUMMERS RE MBMA

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PLEASE PRINT NAME	BUSINESS NAME & PHONE
Richard Steinberg	CMB 673-7103
JOSE SMITH	CMB 673-7106
MATTI BOWER	CMB COMM.
LUIS GARCIA	" "
PATRICIA WALKER	" FIN.
TIM HENSTREET	" CMO
JORGE M. GONZALEZ	" "
MURRAY DUBBIN	" CAO
RAUL AGUILA	" "
KATHIE BROOKS	" OBPT
JORDANNA RUBIN	PUB. WORKS ENV.